

**BEFORE THE  
ILLINOIS COMMERCE COMMISSION  
SPRINGFIELD, ILLINOIS**

CASE NO. 07-0428

NORTH COUNTY COMMUNICATIONS CORP.,

Complainant,

v.

VERIZON NORTH, INC., et al.,

Respondents.

**PRE-FILED REBUTTAL TESTIMONY OF TODD LESSER**

October 9, 2007

**PRE-FILED REBUTTAL TESTIMONY OF TODD LESSER**

1   **Q:**   Please state your name, business address and title.

2   **A:**   My name is Todd Lesser. My business address is 3802 Rosecrans Street, Suite 485, San  
3   Diego, California 92110. My telephone number is (619) 364-4750.

4           As stated in my direct testimony, I am President of North County Communications  
5   Corporation (hereinafter “NCC”) and have held that position since 1995. NCC is a privately-  
6   held, facilities-based competitive local exchange carrier (“CLEC”) with operations in California,  
7   Oregon, Washington, Arizona, Illinois, and West Virginia. In addition, NCC is a facilities-based  
8   interexchange carrier (“IXC”) in California, Arizona, Nevada, Utah, Illinois, Indiana, Michigan,  
9   Ohio, Pennsylvania, New York, and New Jersey. *See* Lesser Direct Testimony, lines 5-18.

10   **Q:**   Have you had an opportunity to review the direct testimony submitted in this proceeding  
11   by Commission Staff’s Dr. James Zolnierrek and Verizon’s Edward Googe?

12   **A:**   Yes, I have.

13   **Q:**   Have you ever spoken to or communicated with Verizon’s Edward Googe about the  
14   topics he addresses in his direct testimony or the dispute NCC has with Verizon in this  
15   proceeding?

16   **A:**   Never.

17   **Q:**   Do you agree with Verizon’s characterization of NCC’s Complaint?

18   **A:**   No. Verizon misstates the issues when it claims that the Complaint “boils down to two  
19   fundamental questions.” *See* Googe Testimony at 5, lines 12-18. The true issue in this  
20   proceeding is whether it is anticompetitive, discriminatory and otherwise unlawful for Verizon to  
21   leverage its monopoly power in the LIDB/CNAM information access and transmission market  
22   by hosting Verizon’s own LIDB/CNAM data in databases owned and controlled by Verizon  
23   while simultaneously refusing to access NCC’s LIDB/CNAM data if NCC elects to store such  
24   data in NCC-owned and -controlled databases. NCC believes that Verizon’s conduct is  
25   unlawful.

In fact, Verizon has distorted, and continues to distort, the LIDB/CNAM data access and transmission market. In storing and hosting Verizon LIDB/CNAM information in Verizon databases, Verizon allows NCC access to that information by one of only two means: (1) direct access by connecting to the databases through Verizon; or (2) indirect access by using a third-party data company to access, query and transmit the data. In accessing the LIDB/CNAM data of NCC, however, Verizon refuses to obtain such information through either of those methods and, instead, insists on requiring NCC to choose between two equally unattractive options: (1) storing its LIDB/CNAM data with Verizon; or (2) storing its LIDB/CNAM data with a Verizon-approved third-party data aggregator. Verizon has made clear the fact that it will refuse to query NCC's LIDB/CNAM data if NCC stores that data in NCC's own databases. *See Lesser Direct Testimony*, lines 180-182, Ex. J; *see also* Google Direct Testimony at 8, lines 8-10 (noting that NCC has two options: store its LIDB/CNAM data with Verizon or store such data with a third party); *see also* Verizon Response to NCC DR-118 appended hereto at Exhibit A.

**Q:** What is Staff's position regarding these limited options presented by Verizon?

**A:** Staff provides an excellent summary of a central point in this matter when it states that NCC should not be required to supply its data in bulk to a third-party vendor if NCC "can self-provide these services more cost effectively." *See Zolnierrek Direct Testimony*, lines 413-420. However, it is not just a matter of money and profit. By attempting to control how and where NCC stores its data, Verizon interferes with NCC's right to protect, in a reasonable fashion, its proprietary information.

Furthermore, Staff believes that it would be "anti-competitive for Verizon to refuse to obtain NCC LIDB and CNAM information from some source, provided it can do so on reasonable rates, terms and conditions." *See Zolnierrek Direct Testimony*, lines 433-441. Staff reaches that conclusion without the benefit of knowing that Verizon also dictates both the rates VeriSign will charge to Verizon for access to CLECs' LIDB/CNAM data and, thus, the rates VeriSign will pay to the CLECs for such queries by Verizon. *See Verizon Supplemental*

Response to Staff DR JZ VZ-8, a copy of which is appended hereto at Exhibit B. I believe Staff would strengthen its position regarding the conclusion that Verizon's behavior is anticompetitive and unlawful if Verizon were not stonewalling the discovery process in an attempt to hide damaging contracts that show the full extent of the control Verizon exercises over the pricing, on all levels, in the LIDB/CNAM information market.

**Q:** Are you suggesting that Verizon should not be allowed to store its own LIDB/CNAM data in its own database?

**A:** No, I'm not. I'm saying that there is an unlevel playing field in the LIDB/CNAM data storage and access universe that has been created and is maintained by Verizon. Verizon should not be allowed to prohibit NCC from storing NCC's LIDB/CNAM data in databases owned and controlled by NCC. Verizon admits that it and "many local exchange companies" maintain their own databases for their own line numbers. *See* Google Direct Testimony at 7, lines 1-8. Despite that admission, Verizon has decided it will not query, access or transmit the LIDB/CNAM data of NCC if NCC elects the storage process utilized by "many local exchange companies."

**Q:** Is Verizon's claim that it does not and cannot prohibit NCC from storing its own LIDB/CNAM data an accurate assertion?

**A:** Verizon says that it does not prevent NCC from storing its own data. *See* Google Direct Testimony at 16, lines 2-3. But that's a deceptive statement, which, in light of the market realities, cannot pass the straight-face test. It's true that Verizon does not specifically say that NCC cannot store its own LIDB/CNAM data; however, Verizon has stated that it will not access, query or transmit NCC's LIDB/CNAM data if NCC stores such data in NCC's own databases. *See* Lesser Direct Testimony, lines 180-182, Ex. J; *see also* Google Direct Testimony at 8, lines 8-10 (noting that NCC has two options: store its LIDB/CNAM data with Verizon or store such data with a third party); *see also* Verizon Response to NCC DR-118 appended hereto at Ex. A.

If NCC wants to provide the same level of service offered by Verizon, NCC must make its LIDB/CNAM data available to Verizon. That reality presents a classic Catch-22: Verizon

78 says that NCC can do whatever NCC elects to do, but, if NCC stores its own data, Verizon will  
79 not query, access or transmit that data.

80 **Q:** Is Verizon merely refusing to enter into a direct agreement to access that data from NCC  
81 databases?

82 **A:** No. Verizon has gone beyond that point. Verizon has stated that it will not access, query  
83 or transmit NCC's LIDB/CNAM data – either directly or through a third party – if NCC stores  
84 that data in NCC databases. *See* Lesser Direct Testimony, lines 180-182, Ex. J; *see also* Google  
85 Direct Testimony at 8, lines 8-10 (noting that NCC has two options: store its LIDB/CNAM data  
86 with Verizon or store such data with a third party); *see also* Verizon Response to NCC DR-118  
87 appended hereto at Ex. A.

88 Given Verizon's refusal to access NCC's data (either directly or through a third party) if  
89 that data is stored by NCC in NCC's databases, Staff's discussion of possible Verizon queries of  
90 NCC's data through a third-party intermediary is unrealistic and moot. *See* Zolnierrek Direct  
91 Testimony, lines 182-188.

92 **Q:** What can you say about Verizon's claim that it does not compel NCC to store its data  
93 with a third-party data provider?

94 **A:** Verizon says that it "did not require or compel NCC to enter into a contract with  
95 VeriSign for storage of NCC customers' CNAM and LIDB information." *See* Google Direct  
96 Testimony at 16, lines 1-18. That is simply more deception on Verizon's part. It is a completely  
97 fallacious and disingenuous argument. Unfortunately, Staff appears to have fallen for Verizon's  
98 smoke-and-mirrors routine. *See* Zolnierrek Direct Testimony, lines 422-431. When presented  
99 with the reality of the situation, I believe Staff will change its opinion.

100 Based on the situation created by Verizon's demands, NCC must store its data with either  
101 Verizon or a Verizon-approved third party. *See* Google Direct Testimony at 8, lines 8-10 (noting  
102 that NCC has two options: store its LIDB/CNAM data with Verizon or store such data with a  
103 third party); *see also* Verizon Response to NCC DR-118 appended hereto at Ex. A; *see also*

Lesser Direct Testimony, lines 198-211; *see also* Google Direct Testimony at 7, lines 10-18. If NCC elects to store its data with a third party, it may only store that data with a Verizon-approved company. Verizon admits that point when it says “Verizon only ‘dips’ data through third party data aggregators with which it has contracts.” *See* Google Direct Testimony at 16, lines 10-11. Again, Verizon presents a Catch-22: NCC is not free to select its preferred third party, and cannot, under any circumstance, store its own data if it wants Verizon to dip that data. *See* Google Direct Testimony at 8, lines 8-10 (noting that NCC has two options: store its LIDB/CNAM data with Verizon or store such data with a third party); *see also* Verizon Response to NCC DR-118 appended hereto at Ex. A.

Similarly, Staff’s testimony refers to the notion that carriers may “elect” to store their data within a database owned by a third-party provider. *See* Zolnierrek Direct Testimony, lines 147-154. Unfortunately, Staff overlooks the fact that NCC’s “election” to store its LIDB/CNAM data with a third party is a Hobson’s choice. NCC and the “smaller guys” have no choice. If NCC wants its LIDB/CNAM data to be queried by Verizon, NCC must store that data with either Verizon or a Verizon-approved third party.

**Q:** Is NCC free to select the third-party database provider of its choice?

**A:** No. NCC must choose from third parties approved by Verizon. For instance, Verizon does not dip data stored by Accudata. *See* Lesser Direct Testimony, lines 350-353, Ex. U.

**Q:** Why do you think Verizon will not query data hosted by Accudata?

**A:** I believe Verizon will not dip through Accudata because Accudata has refused to succumb to Verizon’s demands regarding price. Due to Verizon’s large number of customers and huge amount of customer-related data, Verizon possesses significant market power in the data market. *See* Zolnierrek Direct Testimony, lines 325-343, 436-441.

Verizon won’t do business with companies that do not acquiesce to Verizon’s demands. It is a usual Verizon tactic in that Verizon sets the standards and makes whatever demands it

wants, then, when a company challenges the situation, Verizon says, “but those are the rules and the standards.”

**Q:** Do you question the veracity of Verizon’s statement that it does not purchase LIDB/CNAM data directly from any telecommunications carrier?

**A:** Based on Verizon’s responses to NCC’s data requests, I can only characterize that statement as a complete fabrication. Verizon went to great lengths in the discovery process to hide all information regarding agreements with other carriers and with third-party data providers and aggregators. Indeed, a motion to compel is pending in this proceeding on that issue. As for the documents that were produced, Verizon, despite the protective order, blocked out key information in an attempt to prevent NCC and this tribunal from identifying Verizon’s falsehoods. In one such document, Verizon inadvertently failed to block out information that identified the contracting party as \*\*\*\*\*, despite its continued denial that it has direct agreements with any other carrier. *See* Verizon Response to NCC DR-28, attached hereto at Exhibit C.

Verizon’s discovery responses indicate that it is entering into a direct agreement with \*\*\*\*\*. *See* Lesser Direct Testimony, lines 588-598, Ex. J. In addition, in its discovery responses, Verizon produced a contract with \*\*\*\*\* under which Verizon purchases \*\*\*\*\* CNAM database information. *See* Lesser Direct Testimony, Ex. S. Under that agreement with \*\*\*\*\*, Verizon is required to “[q]uery the \*\*\*\*\* Calling Name Database for all calls that terminate to VERIZON customers who subscribe to VERIZON’S CNAM service when the calling party’s number resides in the \*\*\*\*\* Calling Name Database.” *See* Lesser Direct Testimony, Ex. S.

That \*\*\*\*\* contract contradicts Verizon’s statements that it does not purchase LIDB/CNAM data directly from any telecommunications carriers. Moreover, the \*\*\*\*\* contract shows that Verizon is willing to mandatorily query the CNAM/LIDB information of another carrier and to enter into a carrier-specific agreement to obtain such information. In the

155 case of NCC, however, Verizon has said it will not dip that data for NCC either directly or  
156 through a third party if NCC stores its own LIDB/CNAM data. *See* Google Direct Testimony at  
157 8, lines 8-10 (noting that NCC has two options: store its LIDB/CNAM data with Verizon or store  
158 such data with a third party); *see also* Verizon Response to NCC DR-118 appended hereto at Ex.  
159 A. That discrepancy, on its face, appears to be a discriminatory practice by Verizon against  
160 NCC vis-à-vis at least one competitive carrier: \*\*\*\*\*.

161 **Q:** Is NCC going to store its own LIDB/CNAM data in NCC-owned and –controlled  
162 databases?

163 **A:** Yes.

164 **Q:** Will all carriers have access to that data?

165 **A:** Yes. Every carrier wishing to access NCC's LIDB/CNAM data will be able to access the  
166 data in the same manner that Verizon provides access to its LIDB/CNAM data. Carriers will  
167 have two options for such access: (1) direct querying of NCC's database, or (2) indirect querying  
168 through a third party. In either instance, as is the case in Verizon's data storage, the data will be  
169 stored in a single location owned and controlled by NCC.

170 NCC takes a few simple steps. First, NCC stores its own data in its own database,  
171 allowing NCC to retain control over that data. Second, NCC revises the point locations in the  
172 national LERG and LNP databases. The revised point locations will cause LIDB/CNAM queries  
173 to be directed to NCC's database rather than the VeriSign database, to which those indicators  
174 currently point. The companies querying NCC's data will not notice any changes.

175 **Q:** Is NCC seeking to require Verizon to access NCC's LIDB/CNAM data in a manner  
176 different from the way all other carriers will be able to access the data when NCC stores that data  
177 in its own databases?

178 **A:** Absolutely not. As noted previously, each carrier will have two ways to obtain the data:  
179 (1) purchasing directly from NCC, or (2) purchasing indirectly by having a third party perform  
180 the query on the carrier's behalf.



181 **Q:** For purposes of clarification, can you explain the difference between direct and indirect  
182 queries?

183 **A:** Yes. Let's assume that Verizon obtains its SS7 links from AT&T and that Verizon wants  
184 to query Sprint/Embarq data. Verizon can submit a LIDB/CNAM query to AT&T and request  
185 that AT&T perform the query for Verizon. AT&T will bill Verizon based upon a rate that  
186 AT&T negotiated with Sprint/Embarq plus a transport charge. This can be described as  
187 indirectly querying or dipping another carrier. On the other hand, Verizon could elect to send its  
188 query using SS7 links that it has in place with Sprint/Embarq or request that AT&T allow the  
189 query to go directly to Sprint/Embarq's LIDB/CNAM database. In that instance, Sprint/Embarq  
190 would recognize the query as being from Verizon and then bill Verizon (not AT&T) for the  
191 query. That would be a direct query of LIDB/CNAM data by Verizon from Sprint/Embarq.

192 **Q:** Once NCC rolls out its own LIDB/CNAM database, will carriers be able to access that  
193 data from VeriSign?

194 **A:** No. A carrier may store its LIDB/CNAM in only one database (*i.e.*, the point locations  
195 used to direct queries cannot be assigned to more than one location/destination). When NCC  
196 rolls out its LIDB/CNAM database, the point locations will go to NCC's database. NCC's  
197 LIDB/CNAM data will no longer be stored in VeriSign's database, and **all** carriers will be  
198 obtaining NCC's LIDB/CNAM data from the same place: NCC's database.

199 **Q:** Are there any misconceptions regarding Verizon's current access to NCC's LIDB/CNAM  
200 data that you feel need to be clarified?

201 **A:** Yes. It would appear Staff believes that NCC is requesting that Verizon send  
202 LIDB/CNAM queries directly to NCC rather than going through VeriSign. That's not accurate.  
203 Unfortunately, there are many terms floating around in this proceeding. Verizon is not currently  
204 going "through" VeriSign to obtain NCC's LIDB/CNAM data. Verizon goes directly **to**  
205 VeriSign to get NCC's data. VeriSign houses the NCC LIDB/CNAM data. NCC has no plans to  
206 disconnect its SS7 links with VeriSign. Those links allow NCC to get to the SS7 network of the

207 country. NCC's intention is to house its LIDB/CNAM data in its own database instead of storing  
208 that data in VeriSign's database. Verizon can still send the queries the same way it currently  
209 reaches VeriSign. VeriSign will simply route those queries to NCC's database instead of  
210 dipping VeriSign's database for that information. NCC will then bill Verizon for the queries.

211 In short, NCC is simply asking to do the same thing that Verizon does.

212 **Q:** Verizon argues that it cannot be compelled to purchase NCC's LIDB/CNAM data. Is  
213 that correct?

214 **A:** No. Verizon asserts it cannot be compelled to purchase NCC's LIDB/CNAM data in  
215 order to provide Verizon's services to Verizon's end users. *See* Google Direct Testimony at 5.  
216 That argument is based on a false premise. First of all, consumers expect to receive Caller ID  
217 information, including Calling Party Name information, when they receive calls and have their  
218 Caller ID information, including Calling Party Name information, transmitted when they place  
219 calls. Indeed, Verizon has noted that reality in its own discovery responses. *See* Lesser Direct  
220 Testimony, lines 114-122; *see also* Verizon Response to NCC DR-28 appended hereto at Exhibit  
221 C. Furthermore, Verizon **must** obtain NCC's LIDB/CNAM data for certain types of calls. For  
222 instance, for Verizon's end users to place collect or third-party billed calls to NCC end users,  
223 Verizon must access the LIDB data of NCC's called party to verify the acceptance of such  
224 charges for the called number.

225 Moreover, the fact that Verizon has queried and continues to query NCC's LIDB/CNAM  
226 data so long as it is stored with VeriSign – but will cease doing so when NCC moves the data to  
227 an NCC database – shows that Verizon is not willing to pay just compensation to NCC for the  
228 data. On the one hand, if Verizon can obtain the information at no or little charge, it will do so.  
229 If, on the other hand, Verizon must pay a rate to NCC similar to the rate it charges NCC for the  
230 same data, Verizon refuses to query the data. This is merely another example of Verizon's  
231 efforts to leverage its market power to its own economic benefit and to the financial detriment of  
232 its smaller competitors.

233 **Q:** Does Verizon's 1-800-COLLECT service query LIDB/CNAM data?

234 **A:** Yes. When I placed a test call, Verizon's 1-800-COLLECT service queried the  
235 applicable LIDB/CNAM data.

236 **Q:** Verizon testifies that it may choose not to query LIDB/CNAM data. Is that a reasonable  
237 statement?

238 **A:** No. A carrier would be ill-advised not to query LIDB/CNAM data and still permit calls  
239 to be completed. Fraud losses would be tremendous. Customers could fabricate calling card  
240 numbers, bill third-party calls to payphones, unsuspecting businesses and residential consumers,  
241 and make collect calls from payphone to payphone.

242 **Q:** Do you know of any carriers that allow such calls to be placed without querying  
243 LIDB/CNAM data?

244 **A:** None that are still in business.

245 **Q:** Are you qualified to make that statement?

246 **A:** Yes. In 1983 and 1984, I worked as an independent security consultant for Western  
247 Union – Metrophone assisting in combating fraud.

248 **Q:** Are you aware of any instance in which Verizon does not query LIDB/CNAM data for  
249 collect calls to Verizon's customers?

250 **A:** No.

251 **Q:** Are you aware of any instance in which Verizon does not query LIDB/CNAM data for  
252 third-party calls billed to Verizon's customers?

253 **A:** No.

254 **Q:** Are you aware of any instance in which Verizon does not query LIDB/CNAM data to  
255 validate Verizon's calling cards?

256 **A:** No.

257 **Q:** What would happen if Verizon failed to query NCC's LIDB/CNAM data prior to  
258 allowing a call to be placed?

259 A. I suspect that Verizon would contact NCC to put a charge on the NCC customer's bill. I  
260 assume Verizon would seek payment for the call. NCC's customers would be very frustrated if  
261 they had a third number charge (cramming) put on their bill when they ordered third number call  
262 blocking from NCC.

263 Q. If a customer had a Verizon line would it be any different?

264 A. Absolutely. Verizon honors LIDB and blocking requests for its own customers. In other  
265 words, a Verizon customer would not have to worry about a collect call or third-number billing  
266 charge showing up on his bill if that customer had requested a block. Customers hate when these  
267 charges show up on their bills. That is why anti-cramming rules exist.

268 Q. Verizon states that it is under no obligation to offer Caller ID ("CID") services. Is this an  
269 accurate statement?

270 A. No. Verizon has a tariff that contains provisions for the offering of CID services.  
271 Verizon cannot unilaterally stop offering a service unless it first receives the Commission's  
272 permission to cease offering and providing the service.

273 Q: Is there validity to Verizon's argument that it discloses the limitations of calling name  
274 and number delivery in its promotional materials and tariffs?

275 A: No. Verizon asserts that it informs its end users that calling name and number  
276 information may not always be transmitted to the end user's Caller ID display. *See* Google Direct  
277 Testimony at 11, lines 13-21. Although Verizon's promotional and tariff materials disclose that  
278 calling name and number information may not always be displayed for incoming calls, Verizon's  
279 materials do not disclose that there is whole a category of callers that Verizon will not transmit  
280 call data on, simply because Verizon chooses not to access information that is available to it.  
281 Verizon is not telling its own customers the real reason for such omissions; that Verizon  
282 selectively omits the information by refusing to dip the data belonging to certain carriers.  
283 Verizon's selective omission of calling name and number information is clearly discriminatory,  
284 anticompetitive and unlawful.

285 **Q.** Mr. Googe testifies that Verizon takes great care to educate its Caller ID customers on the  
286 point that not every call will be displayed with a name and number. Do you agree with that  
287 statement?

288 **A.** No. In the course of discovery in this proceeding, NCC propounded data requests  
289 seeking all the documentation to show the “great care” that Verizon takes to educate its  
290 customers. Verizon provided scant information. *See* Verizon Response to NCC DR-176  
291 attached hereto at Exhibit D. Verizon provided no scripts or training material for their sales  
292 agents and customer service reps. In addition, the Verizon website is deceptive in that it does not  
293 disclose that Verizon may merely elect not to query the data. *See* Exhibit E. Verizon’s website,  
294 instead, implies that some data is simply unavailable. Finally, customers rarely, if ever, consult  
295 carriers’ tariffs to educate themselves on service offerings. Regardless, the applicable Verizon  
296 tariff fails in terms of full disclosure in the same manner as the website: the tariff implies that  
297 some data is simply unavailable without disclosing the fact that Verizon makes affirmative  
298 decisions not to query certain the data of some carriers.

299 **Q.** Verizon has testified that its decision not to purchase LIBD/CNAM information directly  
300 from NCC does not adversely affect NCC’s end users. Do you agree with this?

301 **A.** Absolutely not. Mr. Googe has held a management position in Product Management and  
302 Product Development. He is well aware that the reason Verizon sells CID and the services that  
303 used LIDB is to fulfill customers’ needs and make money. If the services were not popular,  
304 Verizon would not sell the products. It doesn’t take a rocket scientist to figure that out.

305 Verizon is attempting to create an unlevel playing field. No customer will want NCC  
306 phone service if his caller name is not going to show up on the display units of the second largest  
307 phone company in the U.S. Verizon’s own statistics show how popular Caller ID with Name  
308 Deliver is. *See* Verizon Response to Staff DR JZ VZ-6, appended hereto at Exhibit F.  
309 Customers screen calls when the number shows up as unavailable. Second, customers expect the  
310 calling cards that NCC issues to work when they travel to Verizon territory. The calling cards

are not worth the plastic they are printed on if they will not work in Verizon territory. Third, customers want to be able to receive collect calls. If customers cannot receive collect calls using an NCC telephone number, they will sign up with Verizon instead. Fourth, customers want to be able to bill third number charges to their telephone. Finally, selling calling name information is a way that telephone companies make money. Verizon would like to artificially increase the cost of the “little guys” like NCC by making us pay more for Verizon’s data than Verizon is willing to purchase our data. This means that we have to pass this cost on to our customers.

**Q:** Are there other ways that Verizon’s refusal to purchase LIDB/CNAM from NCC adversely impacts NCC’s end user customers?

**A:** Yes. That refusal certainly impacts NCC’s customers and the breadth and relative value of NCC’s service offerings. Verizon argues that its refusal has no negative impact because it currently obtains NCC’s LIDB/CNAM data through third-party queries. *See* Google Direct Testimony at 7-8. However, Verizon simply ignores the fact that it will cease those queries when NCC moves to storing such information in NCC’s own LIDB/CNAM database. In its direct testimony, Staff explained that there are indeed “some instances in which the service that NCC customers received will be impaired,” going on to outline several instances of impacted service that would render NCC’s service inferior to that service provided by Verizon. *See* Zolnierrek Direct Testimony, lines 286-323.

Staff’s position mirrors many of the points made in my direct testimony. Furthermore, Staff explains that “Verizon’s failure or refusal to obtain NCC LIDB and CNAM information has a much larger potential to negatively affect NCC’s business than does the failure or refusal of NCC to obtain Verizon LIDB and CNAM information to negatively affect Verizon’s business.” *See* Zolnierrek Direct Testimony, lines 338-341.

**Q:** Is there any reason Verizon would benefit from making NCC’s service inferior compared to Verizon’s service?

**PUBLIC VERSION – CONFIDENTIAL INFORMATION REDACTED**

336 **A:** Of course. Verizon would have a built-in marketing strategy to discredit NCC's service  
337 (and the service of any other CLEC that refuses to be bullied in this manner) as an inferior  
338 product because NCC can't even have its end users' calling name and number information  
339 transmitted to other end users.

340 **Q:** But NCC has only a handful of customers and fewer than 100 lines. Is that a compelling  
341 competitor to target?

342 **A:** In my experience, Verizon has yet to meet a competitor that it did not wish to discredit  
343 and destroy. If Verizon can stop a competitor at 3 customers and 96 lines, then Verizon doesn't  
344 have to worry about interfering with that company's business when it has 3,000 customers and  
345 96,000 lines. NCC would caution the Commission and Staff that this is not just about NCC.  
346 This issue permeates the market wherever Verizon is successful in pressuring a company to  
347 make the same unsavory choice NCC is facing here.

348 **Q.** Verizon says that NCC's Complaint is much to do about nothing because you don't know  
349 how many CNAM queries NCC has received from Verizon Illinois. Do you agree with this?

350 **A.** No. It doesn't matter if NCC receives a thousand or a million dips. The Telecom Act  
351 says nothing about treating "the big guys" different from "the little guys." Second, since January  
352 2006, NCC has received approximately 68,000,000 LIDB/CNAM dips from Verizon. NCC  
353 simply does not know what Verizon company queried NCC's LIDB/CNAM data because  
354 VeriSign does not provide information to NCC at such a granular level.

355 **Q:** Do you have any comment to Verizon's argument that it does not discriminate against  
356 NCC because it refuses to buy LIDB/CNAM data directly from any carrier?

357 **A:** Yes. Verizon trots out a very brazen argument when it states that it treats everyone the  
358 same way. In essence, Verizon admits that it treats all carriers in an anticompetitive manner.  
359 That Verizon's anticompetitive behavior is widespread should not create a safe harbor for  
360 Verizon to continue engaging in that anticompetitive behavior. In addition, the \*\*\*\*\*  
361 agreement appears to belie Verizon's argument. *See* Lesser Direct Testimony, Ex. S.

Moreover, Verizon's argument that it treats everyone in the same anticompetitive fashion ignores the fact that Verizon does not treat itself in the same manner. In other words, Verizon stores its own data, thereby eliminating third-parties for the querying, access and transmission of a vast amount of data in Verizon's service territories, but it claims it will not query or access the data of other carriers if those carriers store their own LIDB/CNAM data in their own databases. *See* Google Direct Testimony at 8, lines 8-10 (noting that NCC has two options: store its LIDB/CNAM data with Verizon or store such data with a third party); *see also* Verizon Response to NCC DR-118 appended hereto at Ex. A.

**Q:** Do you agree with Staff's statement, in its Direct Testimony at lines 347 through 358, that it is not anticompetitive for Verizon to use a third-party vendor to obtain NCC LIDB/CNAM information?

**A:** No. With all due respect, I must disagree with Staff's conclusion on that point. In particular, Staff's analysis and conclusion does not consider the fact that Verizon requires NCC to store its LIDB/CNAM data with a third party approved by Verizon if NCC wishes to have its LIDB/CNAM data queried by Verizon. Verizon sets both the rates that the third-party database providers can collect from Verizon and the amounts those third parties will pay to carriers like NCC for Verizon's querying of and access to the CLECs' data stored with those third parties.

**Q:** In the Zolnierrek Direct Testimony, lines 347-358, Staff discusses the anticompetitive impact that could result if Verizon and other parties were prevented from using third-party data vendors. Is NCC seeking to prohibit Verizon or any other carrier from using a third party to query and access NCC's LIDB/CNAM data?

**A:** No. NCC is seeking to eliminate the unfair advantage Verizon possesses in the LIDB/CNAM market, which prohibits NCC from both storing its own data and providing access to that data to Verizon in order to ensure NCC may offer services comparable to those services offered by Verizon. In addition, NCC seeks to end the control Verizon exerts over the list of third-party vendors from which NCC must choose to store its LIDB/CNAM data. Based on



388 conversations with VeriSign representative, NCC believes that Verizon caps the rates it will pay  
389 to NCC and other carriers for Verizon's access to NCC's and other carriers' LIDB/CNAM data.  
390 Of course, Verizon has refused to disclose agreements it has with those third parties, and a  
391 motion to compel further responses to data requests regarding that topic is pending before the  
392 Commission in this proceeding.

393 **Q:** Do you agree with Verizon's comments regarding technical impediments to NCC's  
394 transmitting LIDB/CNAM data to other carriers?

395 **A:** No, I do not. Mr. Googe states that he has no technical expertise, and thus, he is not in a  
396 position to provide meaningful testimony regarding technical matters. In addition, as discussed  
397 in my direct testimony, NCC does not require SS7 trunks with Verizon to receive collect or  
398 third-party billed calls. Furthermore, NCC does not need MF trunks to allow its calling cards to  
399 be used in Verizon territory. Moreover, NCC does not need direct trunks to Verizon in order to  
400 have NCC's calls routed or its Caller ID information delivered to Verizon. NCC currently routes  
401 all of its calls indirectly through other carriers. Those carriers then pass all the appropriate call  
402 data to display NCC's customers' Caller ID information.

403 **Q:** Verizon devotes a significant amount of testimony addressing SS7. What is SS7?

404 **A:** SS7, which stands for Signaling System 7, is a protocol used in the public switched  
405 telephone network for setting up calls and providing access to databases. There are two types of  
406 protocols used in SS7: TCAP (Transaction Capabilities Application Part) and ISUP (ISDN User  
407 Part). TCAP is used for database lookups such as LIDB and CNAM. ISUP is used for actually  
408 setting up the call.

409 **Q:** What is your response to Verizon's discussion of SS7 technology?

410 **A:** First, Verizon raises the issue of SS7 technology as a mere smokescreen to obfuscate the  
411 real issues in this proceeding. The entire subject of SS7 technology is irrelevant. I believe  
412 Verizon hopes its attempts to insert technical jargon into this discussion will either confuse the

Commission or lead the Commission to believe that, as a matter of technology, Verizon is required to operate in the anticompetitive manner about which NCC complains in this case.

It is a simple task to create and populate a database program. NCC has stated repeatedly that it is ready to roll out its own database containing NCC's LIDB/CNAM data. In addition, NCC has stated that it has SS7 capabilities and is prepared to implement SS7 in Illinois immediately. As NCC has explained previously, it has not implemented the database and SS7 capabilities because the largest provider in NCC's Illinois service area – *i.e.*, Verizon – has refused to query NCC's data if NCC hosts its own data. Any Verizon argument that implies NCC does not possess the tools needed to host its own LIDB/CNAM data is a red herring and complete falsehood.

**Q.** Mr. Google avers that NCC admitted it has not invested in the SS7 signaling capabilities necessary to host and transmit its own CNAM/LIDB data. Is this accurate?

**A.** Absolutely not. This is a completely untrue.

**Q:** Is it difficult for NCC to convert the MF trunks it has with Verizon to SS7?

**A:** No. First of all, depending on how difficult Verizon continues to be, NCC may never convert them to SS7 in Illinois. For incoming calls, NCC doesn't need SS7 for its customers to receive collect calls or third party billing charges using LIDB. For outbound trunks and CLID, since Verizon continues to thwart NCC at every concern, NCC may use a third party to route calls to Verizon. In fact, this is what NCC currently does.

**Q:** If NCC decides to convert its trunks or set up new SS7 trunks in Illinois with Verizon, how long will it take?

**A:** NCC would simply submit one ASR to Verizon, and the trunks should be installed within approximately thirty days, assuming Verizon does not delay installation in a further attempt to hinder and harm NCC's business.

**Q:** Does NCC need to convert its interconnection trunks with Verizon to SS7 in order to host its own CNAM/LIDB database?

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439 **A:** Absolutely not. A TCAP SS7 network for database lookups such as CNAM/LIDB and  
440 an ISUP SS7 network for call routing are not mutually exclusive.

441 **Q.** Verizon testifies that NCC needs SS7 to query LIDB. Is that correct?

442 **A.** No. You can use SS7 but there are many different protocols that can be used. For  
443 example, North County had an X.25 connection with VeriSign for over ten years to query LIDB.  
444 Many companies are now letting you query LIDB using the Internet.

445 **Q.** Verizon also comments on NCC hosting its own LIDB and CNAM database and not  
446 having an SS7 network. Are those comments accurate?

447 **A.** No. Apparently, Mr. Google doesn't understand the difference between and ISUP and  
448 TCAP messages as I discussed in my direct testimony. NCC has a TCAP and ISUP SS7 network.  
449 We just don't have SS7 trunks used for voice calls to Verizon in Illinois. As I discussed, this has  
450 nothing to do with NCC hosting its own CNAM and LIDB database and connecting with carriers  
451 by SS7 to access that data.

452 **Q.** Verizon also states that NCC is trying to force Verizon to subsidize the cost of building  
453 out NCC's SS7 network. Is this accurate?

454 **A.** No. NCC is not asking Verizon to subsidize anything.

455 **Q.** Mr. Google says that no other carriers would be able to access NCC's CNAM and LIDB  
456 database because NCC has MF signaling on its trunks with Verizon in Illinois. Is this true?

457 **A.** He is simply wrong. The MF trunks of which Mr. Google talks about are used for voice  
458 communications, not data DIPS. No one uses voice trunks for data DIPS. It is not even possible  
459 to send data DIPS on voice trunks, even if NCC converted the trunks to SS7. Voice trunks are  
460 configured using ISUP. Database queries utilize SS7 links and TCAP.

461 **Q:** Is it difficult for you to turn up your own CNAM/LIDB database?

462 **A:** No. Verizon is attempting to utilize a series of technical terms to obfuscate the issues and  
463 confuse the Commission to make it sound like this is something difficult for NCC to set up. It is  
464 obviously difficult for a lay person to do this, but I am not new to the industry. I have been in

the industry for over twenty-two years. Since 1996, I have personally set up and/or maintained CLEC interconnection points in twelve locations covering seven states and three operating companies: Qwest, AT&T and Verizon. I have SS7 in four locations. Since 1990, I have set up long distance interconnections in forty-three locations.

**Q:** What is the relevance of Verizon’s discussion concerning the size of NCC’s customer base?

**A:** Verizon defends its actions and requests judgment in its favor by saying that NCC’s customer base is made up entirely of commercial end users and that NCC has a small number of customers and lines, and thus, the action is of little or no consequence. *See* Google Direct Testimony at 15-18. That discussion should be discarded without lending any credence to it. With regard to prohibitions on discrimination and anticompetitive behavior, the Commission’s rules and the laws of Illinois do not distinguish between commercial and residential customers. Furthermore, the rules and laws are not applicable only when a carrier achieves a certain number of customers or lines. To hold otherwise would allow Verizon to crush competitors and say, in essence, “come back when you get bigger.” Verizon appears to wish that justice operated on a sliding scale.

**Q:** Does the fact that NCC’s customers received no collect or third-party billed calls from Verizon’s end users in 2006 moot the Complaint?

**A:** Absolutely not. If Verizon were permitted to trot out that argument successfully every time it stymied a competitor, it would never be required to change any of its unfair and anticompetitive practices. The standard for determining whether an action is unfair, discriminatory, and/or anticompetitive is not the actual impact; rather, it is the potential impact of the disputed conduct. *See, e.g., Cox Communs. PCS, L.P. v City of San Marcos* (2002, SD Cal) 204 F Supp 2d 1272, injunction granted, in part, injunction denied, in part (2002, SD Cal) 204 F Supp 2d 1260 (holding that declaratory judgment is appropriate where local regulations *may* violate 47 USCS § 253).

491 **Q.** Mr. Googe says that telemarketers do not routinely accept collect calls. Is this an  
492 accurate?

493 **A.** I can think of multiple examples that an outbound call center wants collect calls. For  
494 example, credit card companies tell you to call back collect if you can't reach their 800 number.  
495 Personal Injury attorneys tell you to call them collect. It really depends on the type of call. One  
496 cannot accurately assert such a generalization.

497 **Q.** Mr. Googe also comments on the availability of unbundled network elements (“UNEs”)  
498 in his discussion of LIDB and CNAM. Does his discussion have any relevance in this situation?

499 **A.** Not in the least. As Mr. Googe states, he is neither an attorney nor a technician, and I  
500 suspect this is why he completely misunderstood what the Federal Communications Commission  
501 was discussing in its Triennial Review Order (“TRO”). The FCC was discussing if the ILEC  
502 should be required to host a CLEC’s LIDB and CNAM information in ILEC databases. NCC is  
503 not asking to host its data in Verizon’s database. In addition, the FCC discussed whether ILECs  
504 have to offer access to their database as a UNE at TELRIC rates. NCC isn’t asking for UNEs in  
505 its Complaint.

506 **Q:** Do you agree with Verizon’s assessment of the FCC’s TRO?

507 **A:** No, I do not. I, like Mr. Edward Googe, am not an attorney, but Staff’s analysis of the  
508 TRO in light of the underlying Local Competition Order from the FCC, is the more compelling  
509 interpretation of the changes to CLECs’ access to LIDB. *See* Zolnierrek Direct Testimony, lines  
510 360-420.

511 The FCC has addressed LIDB in terms of a CLEC’s need to access LIDB storage  
512 facilities of ILECs to store the CLEC’s line information data. It is true that the FCC, in the TRO,  
513 determined that competitive carriers need not be able to house their call-related information in  
514 the ILECs’ databases; however, it is unlikely the FCC expected ILECs like Verizon to create a  
515 system under which CLECs have limited choices of third-party providers if they wish to have  
516 their LIDB/CNAM data accessed by the ILECs like Verizon.

517 **Q:** Despite the FCC’s decision that ILECs need not provide access to their databases for  
518 CLECs to store CLEC LIDB/CNAM data, Verizon proposed a storage agreement to NCC.  
519 Would the LIDB Storage agreement proposed by Verizon resolve the issues in this matter?

520 **A:** No. The LIDB Storage agreement proposed by Verizon does not contain any provisions  
521 to compensate NCC for Verizon’s sale of access to NCC’s data to other carriers dipping the NCC  
522 data. As an additional anticompetitive insult, under the LIDB Storage agreement, Verizon would  
523 be free to query the NCC data without charge and NCC would have to pay to access or query its  
524 own data. *See Lesser Direct Testimony, lines 134-160.*

525 Verizon’s interpretation of its offer reads like a fairytale of a handsome knight coming to  
526 the rescue of poor NCC, offering up Verizon’s databases for free storage and free maintenance.  
527 Verizon conveniently fails to disclose, in its telling of the tale, that it makes significant amounts  
528 of money off the stored data by selling it to other carriers without sharing any of that money with  
529 NCC and by charging NCC to access its own data. *See Lesser Direct Testimony, lines 141-153.*

530 **Q:** Verizon has testified that the statutes and regulations governing the calling information  
531 that must be passed along by telemarketers do not guarantee receipt of that calling information.  
532 Is that correct?

533 **A:** It is correct that telemarketers cannot intentionally block their calling information.  
534 However, telemarketers are not telecommunications carriers. Accordingly, they are not  
535 responsible for the actual transmission of calling data. Verizon’s actions, however, would  
536 prevent NCC’s telemarketing customers from allowing their calling information to be passed  
537 through to called parties. That result would cause NCC’s telemarketing customers to find NCC’s  
538 service less attractive. To quote Tom Searcy, CEO of the America Teleservices Association, the  
539 largest industry group for companies that operate call centers for outbound calling of consumer,  
540 when calling names are not delivered, “it creates an image that somebody is trying to hide  
541 something[, and w]e need to eliminate that potential confusion.” *See Exhibit H.*

542 **Q:** Verizon, at page 33 of Edward Googe's Direct Testimony, criticizes NCC's inability to  
543 cite the exact number of LIDB/CNAM queries it has received from Verizon. Is that a fair  
544 criticism?

545 **A:** No it is not a fair criticism. Verizon's approved third-party providers, such as VeriSign,  
546 do not provide breakdowns by state or region for the number of LIDB/CNAM queries performed  
547 on behalf of NCC. Again, Verizon points to something as a deficiency when the situation is the  
548 direct result of the manner in which Verizon has gamed the system. It should be noted, however,  
549 that NCC could provide state-by-state and region-by-region detail if it stored its own  
550 LIDB/CNAM data in its own databases, another competitive benefit of hosting one's own data.

551 **Q:** Is Verizon correct in its assessment of the reasons NCC brought this Complaint?

552 **A:** Verizon states that NCC brought this complaint for financial gain. *See* Googe Direct  
553 Testimony at 13-14. It is true that this Complaint follows on the heels of NCC's successful  
554 complaint against Verizon in ICC Docket No. 02-0147, but that is a matter of Verizon's making.  
555 In my extensive experience with ILECs, Verizon has demonstrated an uncanny ability to reveal  
556 discriminatory, unfair and anticompetitive behavior on a daily basis. Verizon appears to  
557 systematically reveal its discriminatory and anticompetitive practices one by one, so that NCC is  
558 forced to fight battles against Verizon at every step of the way from the day NCC initially  
559 requested interconnection with Verizon to the present and beyond. In addition, Verizon, due to  
560 its monopoly power and presence in service territories across the country, unveils its  
561 discriminatory and anticompetitive conduct on a state-by-state basis. For example, a battle won  
562 by NCC in Illinois will certainly come up again in New York. Verizon's accusations that NCC  
563 is somehow unfairly parlaying its victory in ICC Docket No. 02-0147 into any financial gain in  
564 this proceeding is nonsense. Verizon conveniently omits the fact that the Commission allowed  
565 only 1/5<sup>th</sup> of the fees NCC was originally awarded in that action. The cost of justice was steep,  
566 and afforded no profit. To the contrary, it cost NCC dearly; a result Verizon counts on. Verizon

is used to destroying its opponents through the hefty costs of litigation, and Verizon is annoyed that it was not able to deplete NCC's finances with a single piece of litigation in Illinois.

NCC brought this action – just as it brought the action in ICC Docket No. 02-0147 – to put an end to an anticompetitive and discriminatory practice employed by Verizon.

**Q.** Mr. Google testifies that NCC's stance in this proceeding is akin to asserting that other telecommunications carriers would have a claim against Verizon anytime Verizon's customers lose dial tone for some reason because the service to those other carrier's customers is "impacted" when they cannot complete calls to Verizon customers. Is that a fair analogy?

**A.** No. First of all, carriers are immune of lawsuits related to problems associated with their customers not having dial tone. Second, falsely advertising to their own customers the reasons why calling name doesn't show up and using their market dominance to cause us to have an inferior product is a completely different issue.

**Q.** Verizon says there will be huge administrative overhead to purchase NCC's CNAM and LIDB data. Is this accurate?

**A.** No. It is a cost of doing business. I am sure that Verizon would like no small competitors, but the Telecom Act does not allow them to discriminate against smaller carriers. Verizon's refusal to purchase NCC's LIDB/CNAM data if NCC stores that data in NCC databases is about price. Verizon wants to lower the cost of its purchase of LIDB/CNAM information so it can maximize profit on its Caller ID/Calling Name products either by paying less than Verizon charges for the same information or by not dipping NCC at all. Verizon knows it will receive few complaints, if any, if the CNAM information of a small carrier does not appear up on the Caller ID displays of Verizon's customers. The "overhead" argument is a complete red herring. For instance, Verizon has no problem giving NCC a direct CNAM/LIDB contract. In that situation, Verizon does seem to care about "overhead." Verizon can use the same SS7 links NCC uses to purchase Verizon's data. Alternatively, Verizon could simply send dips to NCC using Verizon's existing SS7 links. I suspect this is how Verizon interconnects



with \*\*\*\*\*. NCC will still use VeriSign as its SS7 provider, and Verizon clearly connects to VeriSign.

Finally, Verizon gets the benefit of having a nationwide agreement with NCC; like Verizon's agreement with \*\*\*\*\*. NCC has received approximately 68,000,000 LIDB/CNAM queries from Verizon since January 2006. *See* NCC Response to Verizon DR-10, appended hereto at Exhibit G. The administrative overhead on that number of dips is nominal. Verizon's actions are intended to make NCC's phone service less desirable than Verizon's phone service.

**Q:** Does Staff's direct testimony, coupled with Verizon's direct testimony and discovery responses to date, support the conclusion that Verizon has engaged in discriminatory, anticompetitive and otherwise unlawful conduct?

**A:** Yes. However, I believe Staff's ultimate conclusion is not completely consistent with the smaller individual conclusions it reached in its direct testimony.

For instance, Staff has concluded that Verizon should not be permitted to dictate how, with whom and under what conditions NCC may store its LIDB/CNAM data. *See, e.g.,* Zolnierrek Direct Testimony, lines 478-487.

In addition, Staff agrees that NCC may store its own LIDB/CNAM data in NCC's own databases. *See* Zolnierrek Direct Testimony, lines 413-420.

Furthermore, Verizon has admitted that, if NCC stores its own LIDB/CNAM data, then Verizon will no longer query that NCC data. *See* Lesser Direct Testimony, lines 180-182, Ex. J; *see also* Google Direct Testimony at 8, lines 8-10 (noting that NCC has two options: store its LIDB/CNAM data with Verizon or store such data with a third party); *see also* Verizon Response to NCC DR-118 appended hereto at Ex. A.

Moreover, Staff has noted extensively the anticompetitive results of any Verizon refusal to access NCC's LIDB/CNAM data and the general principle that Verizon should not refuse to

618 access that data if it may be obtained at just and reasonable rates. *See, e.g., Zolnierек Direct*  
619 *Testimony, lines 279-343.*

620 Staff notes its concerns that Verizon’s plan to consolidate by contract its third-party  
621 querying efforts into a single intermediary has the potential to be anticompetitive because the  
622 planned contractual relationship may prohibit Verizon from obtaining NCC’s LIDB/CNAM data  
623 from NCC’s databases. *See Zolnierек Direct Testimony, lines 463-487.* Those fears, however,  
624 have been realized already. As noted throughout this proceeding, Verizon already limits NCC’s  
625 options for storing NCC’s LIDB/CNAM data, and Verizon has stated its intention to cease  
626 querying NCC’s data once NCC begins storing its own data. *See Google Direct Testimony at 8,*  
627 *lines 8-10 (noting that NCC has two options: store its LIDB/CNAM data with Verizon or store*  
628 *such data with a third party); see also Verizon Response to NCC DR-118 appended hereto at Ex.*  
629 *A. The anticompetitive harm posed to NCC is actual, not merely potential.*

630 Similarly, Staff explains that the Verizon-selected third-party provider could have  
631 substantial leverage over NCC to impose unreasonable and/or discriminatory rates on NCC.  
632 Again, that is an actuality today. Verizon controls the rates it will pay to the third-party  
633 providers and, thus, controls the small rate NCC obtains for Verizon’s access to NCC’s  
634 LIDB/CNAM data. *See Verizon Supplemental Response to Staff DR JZ VZ-8, a copy of which*  
635 *is appended hereto at Ex. B.*

636 When one adds up those individual conclusions, one must determine that Verizon’s  
637 planned action to cease querying NCC’s LIDB/CNAM data produces an unlawful result. To  
638 quote Staff, I would reiterate that “Verizon should not be able to use a ‘poison pill’ arrangement  
639 to impose on NCC, either directly or indirectly, anti-competitive rates, terms, and conditions for  
640 the provision of LIDB and CNAM information.” *See Zolnierек Direct Testimony, lines 577-*  
641 *578.*

642 **Q:** Does this conclude your rebuttal testimony?

643 **A:** Yes, it does.